PENSION MANAGEMENT OVERSIGHT COMMISSION

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MEETING MINUTES[1]

Meeting Date:	**October 24, 2000**
Meeting Time:	**10:00 A.M.**
Meeting Place:	**State House, 200 W. Washington St., Room 156-B**
Meeting City:	**Indianapolis, Indiana**
Meeting Number:	**4**

Members Present: **Rep. Thomas Kromkowski, Chairperson; Rep. Ron Liggett; Rep. Lawrence Buell; Rep. Richard Mangus; Sen. Joseph Harrison; Sen. Thomas Weatherwax; Sen. Larry Lutz; Mr. Steve Meno; Mr. William Gettings, Jr.**

Members Absent: **Sen. Allie Craycraft; Mr. Claude Davis; Ms. Connie Lux.**

Representative Tom Kromkowski, Chair of the Commission, called the meeting to order shortly after 10:00 a.m.

I. Judges' Retirement Fund Issues

Representative Kromkowski explained that at two previous meetings the Commission had discussed proposed legislation: (1) requiring the benefit paid to members under the 1985 Judges Retirement Fund to be increased by the same percentages as benefits are increased for PERF members; and (2) providing that magistrates are members of the 1985

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Judges Retirement Fund, rather than being members of PERF.

After Commission discussion, a motion was made and seconded to recommend the proposed legislation (PD 3428) for introduction in the 2001 session of the General Assembly. The motion to recommend PD 3428 was adopted by a vote of 7-0. (See Exhibit A, PD 3428.)

II. Prosecuting Attorneys Retirement Fund Issues

Representative Kromkowski explained that at two previous meetings the Commission had discussed proposed legislation that would: (1) provide for vesting in the Prosecuting Attorneys Retirement Fund for prosecutors at eight years, rather than ten; (2) increase the percentage multipliers used in determining prosecutor pensions; (3) reduce the early retirement "reduction factor"; (4) establish a cost-of-living adjustment (COLA) tied to PERF COLAs; and (5) repeal the requirement that members continue to contribute to the Fund after 22 years of service.

After a brief discussion, a motion was made and seconded to recommend the proposed legislation (PD 3429) for introduction in the 2001 session of the General Assembly. Initially, the motion to recommend PD 3429 was passed by a vote of 6-1, and therefore failed to gain the affirmative vote of a majority of the appointed members of the Commission. Later in the meeting, when additional Commission members were present, a motion was made and seconded to reconsider PD 3429. The motion to reconsider the proposed legislation passed, and PD 3429 was adopted as an official recommendation of the Commission by a vote of 7-2. (See Exhibit B, PD 3429.)

III. Miscellaneous PERF and TRF Administrative Issues

Representative Kromkowski then noted that the Commission had at its three previous meetings discussed various proposals concerning public pension administration. The proposed legislation, contained in PD 3482, would: (1) specify that the additional annuity savings account contributions that may be made by a PERF or TRF member may not exceed 10% of the member's compensation; (2) provide that a governing body of a unit that is participating in PERF is not required to request a survey of the estimated cost of participation, and the PERF board is not required to provide an estimate of the costs of participation, when the unit adopts a resolution or ordinance providing that additional classifications of employees will become members of the fund; (3) specify that, in the case of PERF members other than state employees, an employer may pay all or a part of the annuity savings account contribution for the employees; (4) provide that persons employed by TRF are members of TRF; (5) provide that even if a firefighter is 36 years of age or older, the firefighter may be reappointed as a member of a department if the firefighter can complete 20 years of service before reaching 60 years of age; and (6) correct cross-references to provisions related to police and firefighter disability benefits.

After a brief discussion, a motion was made and seconded to recommend the proposed legislation (PD 3482) for introduction in the 2001 session of the General Assembly. The motion to recommend PD 3482 was adopted by a vote of 7-0. (See Exhibit C, PD 3482.)

IV. Summary of PERF and TRF Annual Reports

Dr. William Christopher, Executive Director of TRF, then presented the Commission with TRF's Operation's Report for fiscal year 2000. Dr. Christopher began by describing TRF's mission statement and the goals and objectives that the Fund hopes to achieve. He noted that the report also includes a description of the "core values" that TRF desires to follow in its various working relationships.

Dr. Christopher then highlighted a number of items included in the report, including: (1) a description of TRF's staffing; (2) the statement of Fund assets (which have grown from $4.9 billion as of June 30, 1999, to $5.57 billion as of June 30, 2000); (3) the statements of administrative expenses and investment expenses paid during the fiscal year; and (4) a description of the combined TRF \ PERF retirement information system project.

Dr. Christopher noted that according to the report, TRF's funding ratio, as of June 30, 1999, was 39.23%. He briefly described the schedule of benefit payouts, and he commented that the augmentation language included in the 1999 budget bill was very important. He then discussed the performance of the Fund's investments, noting that the Fund has consistently outperformed its targeted level of return. Dr. Christopher closed his presentation by describing TRF's accomplishments during fiscal year 2000 and the first few months of fiscal year 2001, and he listed for Commission members what TRF hopes to accomplish in the future.

In answer to a question from Senator Tom Weatherwax, Dr. Christopher explained that TRF's asset growth rate is greater than the growth rate of its liabilities. Dr. Christopher also stated that the report presented to the Commission was unaudited, but that TRF is considering using private outside auditors to audit future reports. (See Exhibit D, TRF Operations Report.)

Mr. William Butler, Executive Director of PERF, then presented the Commission with a draft version of PERF's annual report. Mr. Butler began by noting that the Fund has more than $12 billion in assets, and that it has approximately 150,000 active members and is providing benefits to 50,000 retirees. He stated that PERF is among the 100 largest pension funds in the United States.

Mr. Butler pointed out that the annual report describes a number of major initiatives being undertaken by PERF, including the joint project with TRF to implement a new retirement information system. He also noted that the PERF Board of Trustees has commissioned studies reviewing PERF's essential functions.

After describing the provisions in the report concerning Fund assets, Mr. Butler briefly explained the section of the report summarizing the Fund's investments. He stated that since the adoption of the constitutional amendment allowing Indiana's pension funds to invest in equities, PERF has moved approximately $7 billion from fixed-income investments to equity investments. He stated that the Fund currently has 65% of its assets invested in equities, and it has 35% of its assets invested in fixed-income investments. (See Exhibit E, draft version of PERF annual report.)

V. Transferred Liabilities under the "New" TRF Plan

Representative Kromkowski then recognized Ms. Denise Jones of Gabriel, Roeder, Smith and Co., actuaries for TRF, for a discussion of liabilities that are transferred from the closed TRF plan to the "new" TRF plan. Ms. Jones explained that liabilities for teachers who are re-hired after June 30, 1995, are funded through the new TRF plan. She stated that approximately 80% of the accrued liability in the new plan is attributable to members transferred from the closed plan.

In response to a question from Senator Weatherwax, Ms. Jones said that the TRF actuaries have recommended that the current 8.50% contribution rate for the new TRF plan should be increased to 9.0%. (See Exhibit F.)

VI. Minimum Benefit for PERF and TRF Members

Representative Kromkowski then recognized Ms. Mary Beth Braitman of Ice Miller, outside counsel for PERF and TRF. She briefly reviewed the testimony that had been provided at previous Commission meetings concerning the PERF and TRF benefit structure and the desire to raise benefits for lower-paid employees. She noted that the majority of other states do have some type of minimum retirement benefit.

The Commission reviewed PD 3537, which would provide that a PERF or TRF member who retires at normal retirement age is entitled to a monthly benefit of at least $200, with an actuarial adjustment to this minimum if a member chooses a benefit option other than the normal form of life annuity. According to the TRF actuaries, such a proposal would increase TRF's unfunded liability by $8.4 million and require a $1 million payout increase in the first year. According to the PERF actuary, such a proposal would increase PERF's unfunded liabilities by $86.5 million ($35.9 million state; $50.6 million local) and require a 0.3% increase in contributions as a percentage of payroll.

Commission member William Gettings noted that at a previous meeting the Commission had seen a breakdown of PERF and TRF benefits in increments of one hundred dollars, and that this showed a substantial number of PERF members receiving relatively low benefits. Senator Weatherwax commented that in addressing the issue of a minimum benefit, any cost-of-living adjustment that might be included in the upcoming biennial budget would have to be considered as well. After further discussion, the Commission by an 8-0 vote noted that it supports the concept of a minimum benefit, but recommended additional study of the issue. (See Exhibit G, PD 3537 and fiscal impact notes.)

VII. PERF and TRF Retiree Earnings Limitation

Ms. Braitman then discussed the issue of PERF and TRF retiree earnings limitations. She explained that Indiana law specifies that a PERF or TRF member who is receiving pension benefits and is then reemployed in a PERF or TRF covered position may continue receiving benefits until the member earns more than the Social Security normal retirement age earnings limit, but that in April of 2000, federal legislation was enacted that eliminates this Social Security earnings limitation for persons at normal retirement age. She stated that because the federal act eliminated the earnings limit that is referenced by Indiana law, there is currently no earnings limit for PERF and TRF retirees who return to work in PERF or TRF covered positions. (See Exhibit H, Briefing Paper.)

The Commission then reviewed PD 3558, which would: (1) provide that a retired member who has attained normal retirement age for unreduced benefits may be reemployed in a covered position without a suspension of retirement benefits; and (2) provide that the member is entitled to an additional retirement benefit for the period of reemployment.

The draft would also reimpose an annual earnings limit on a retired PERF or TRF member who has not attained the Social Security normal retirement age for unreduced benefits. Under the proposed legislation, if such a retired member is reemployed in a covered position and earns more than $25,000 in a year, the member's retirement benefit would be suspended.

Senator Harrison asked how the additional benefit for a reemployed member would be calculated. Staff explained that it would be based solely on the salary and service during the period of reemployment in the covered position, and that the original benefit would not be changed. Representative Larry Buell commented that under this proposal, a retired member's benefits would not be lowered even if the member became reemployed in a covered position at a lower salary.

After a further discussion, a motion was made and seconded to recommend the proposed legislation (PD 3558) for introduction in the 2001 session of the General Assembly. The motion to recommend PD 3558 was adopted by a vote of 8-0. (See Exhibit I, PD 3558.)

VIII. Pension Relief Fund Issues

Ms. Braitman then briefly reviewed the testimony concerning the Pension Relief Fund that the Commission had heard at its previous meetings. She commented that the proposal suggested by the various interested parties was not intended to be a solution, but merely one more step toward addressing the problems of funding municipal pensions under the "old" police and firefighter funds.

Representative Kromkowski then recognized Mr. Matt Brase of the Indiana Association of Cities and Towns (IACT). Mr. Brase began by noting that the funding of pension liabilities under the old police and firefighter pension funds is one of the most important issues facing Indiana's municipalities. He stated that at IACT's annual conference, a workshop on this issue had formed a number of recommendations concerning the funding of pensions, and that after these were distributed throughout the state IACT has heard only positive comments on those recommendations.

Mr. Brase explained that the amount of pension relief provided by the state varies substantially between municipalities. He said that IACT was proposing that the State would contribute at least 50% of old fund pension payments for a ten year period, beginning July 1, 1998. Mr Brase also stated that under the current law, pension relief fund distributions are made to municipalities by PERF each July and October as a reimbursement for the previous year's pension payments. Mr. Brase said that under IACT's second proposal, the State would advance the payments one year so that distributions would be based on current-year projections. Under the proposal, municipalities would be required to use the advance payment only for increases in future pension payments. (See Exhibit J.)

Senator Larry Lutz questioned Mr. Brase concerning those municipalities that currently have a state share of pension payments that is greater than 50%. Mr. Brase replied that IACT was not proposing to reduce those units' Pension Relief Fund distributions, but was only proposing to guarantee that each unit received at least a 50% state share. Mr. Brase noted, however, that for many of the units currently receiving more than a 50% state share, projections estimate that under the current distribution formula they will eventually receive less than a 50% share. Mr. Gettings asked about the duration of the investments in the Pension Relief Fund. Ms. Braitman answered that because of the Fund's relatively short duration, relative to PERF, its investments were also of shorter maturity.

Representative Kromkowski recognized Mayor David Heath of Lafayette, President of IACT. Mayor Heath began by noting that Lafayette's old police and firefighter pension liabilities were equal to approximately 349.7% of the city's maximum levy. He stated that municipalities appreciate the support they have received from the State in paying old fund benefits, but that the actuaries have predicted that pension costs will rise dramatically until 2016. Mayor Heath said that because of controls on property tax levies, municipalities will face the possibility of cutting existing services in order to fund pension benefits.

Mayor Heath stated that IACT's members support the proposed 50% base amount of pension relief fund distributions from the State. He commented that this proposal is one incremental step in addressing the problem, which is a better approach than being forced to take drastic steps at a later date.

Mayor Ted Ellis of Bluffton was then recognized by Representative Kromkowski. Mayor Ellis explained that the funding issue is a difficult problem in Bluffton and other smaller municipalities even though the absolute dollar amounts of pension liabilities in smaller municipalities may be less than in other communities. He stated that in 1999, Bluffton paid $123,738 for old fund pension liabilities and was reimbursed by the State for only 43% of this amount. Mayor Ellis said that the 50% funding proposal would allow taxpayers across the state to share an equal percentage of the old funds' unfunded liability. He also said that receiving the Pension Relief Fund distributions on a current-year basis would allow for better budgeting by municipalities, and he stated that IACT members support the idea of being allowed to set up an account with PERF to save for future pension payments.

Mayor Ernie Wiggins of Warsaw stated that in 1999 Warsaw paid almost $370,000 for old fund pension liabilities, and that it was reimbursed by the State for approximately 40% of that amount. He said that these pension payments represented almost 3.5% of the city's budget. Mayor Wiggins testified that he supported the 50% funding proposal and the proposal to allow municipalities to invest money with PERF for future pension payments.

Mayor Graham Richard of Fort Wayne explained that he had served in the Indiana Senate over twenty years earlier, when the General Assembly first began addressing the issue of funding for police and firefighter pensions under the old funds. He stated that the General Assembly's actions have been important, but that the problem still exists. Mayor Richard noted that Fort Wayne's accrued liability under the old funds is equal to 343.6% of the City's maximum property tax levy, and he said that in 1999 the State reimbursed Fort Wayne for 43.5% of its pension payments.

Mayor Richard stated that the General Assembly's incremental steps have been the right approach to dealing with the problem, because this allows the interested parties to continually reevaluate the status of the unfunded pension liabilities. He also pointed out that some municipalities are experiencing short-term cash flow problems.

Ms. Kathy Davis, Controller for the City of Indianapolis, stated that the cost of police and firefighter pensions is a significant long-term financial issue for the City. She testified that Indianapolis has a public safety budget of approximately $190 million per year, and that $45 million of that budget is used for pension payments. Ms. Davis said that Indianapolis now faces a $13 million shortfall in paying for these pension benefits.

Mr. Tom Miller, representing the Professional Firefighters Union, testified in support of the pension relief proposal. He commented that it will provide short-term relief and would "buy time" so that other approaches could be considered. Mr. Leo Blackwell, representing the Fraternal Order of Police, also testified in support of the proposal.

Mr. Doug Todd of McCready and Keane, actuaries for PERF, distributed to Commission members a chart showing the cost of the 50% minimum State distribution proposal. According to Mr. Todd's chart, the cost of the ten-year proposal (January 2001 present value) is approximately $51.9 million. (See Exhibit K.)

After Commission discussion, PD 3554 was moved and seconded, and was then adopted by the Commission by a vote of 8-0.

IX. 401(a) Plan for Conversion of Unused Retirement Leave

Staff then described the provisions in PD 3548. This draft would: (1) provide that the Deferred Compensation Committee may annually elect a chairperson and secretary; (2) provide that the two members of the Deferred Compensation Committee who must be participants in the State Employees' Deferred Compensation Plan may not serve for more than two consecutive three-year terms; (3) require the Deferred Compensation Committee to adopt provisions in a defined contribution plan for the purpose of converting unused excess accrued leave to a monetary contribution for employees of a state agency; and (4) repeal the existing cafeteria plan for retired state employees.

Mr. Dave Larsen of the Indiana State Employees Association stated that his organization supports the existing cafeteria plan and does not want it to be terminated. He suggested that under any type of buyback of unused leave the State should pay for the unused time at a rate equal to 100% of the employee's pay. Mr. Bob Brown of the Association of Federal, State, County, and Municipal Employees (AFSCME) commented that his organization supports the basic concept of finding ways to reward employees who do not use leave time unnecessarily.

Mr. Dan Novreske of the State Budget Agency explained that he had raised the issue at the Commission's previous meeting. He stated that he believes that a 401(a) plan would have some features that are better than the existing cafeteria plan for retired state employees. He said that the buy-back rate under a 401(a) plan would be greater than under the cafeteria plan. Mr. Novreske also stated that the 401(a) plan could be funded on a pre-retirement basis.

Representative Kromkowski commented that he was reluctant to repeal the existing cafeteria plan, and he said that there are a number of questions concerning the proposed 401(a) plan. He stated that he hoped the Commission would continue to study the issue. After further Commission discussion, a recommendation to continue studying the issue was moved and seconded, and it was then adopted by an 8-0 vote. (See Exhibit L, PD 3548.)

X. Cafeteria Plan for Unused Leave Time

Staff then explained the provisions included in PD 3323. The draft would amend the law establishing the cafeteria plan for retired state employees. It would increase from $5,000 to $10,000 the maximum amount that may be deposited into a cafeteria plan on behalf of a participating retired state employee who has unused vacation, sick, or personal days.

After Commission discussion, a motion was made and seconded to recommend the proposed legislation (PD 3323) for introduction in the 2001 session of the General Assembly. The motion to recommend PD 3323 was adopted by a vote of 8-0. (See Exhibit M, PD 3323.)

XI. Military Service Credit for PERF and TRF Members

Staff next described the provisions in PD 3546. Under this draft, active members of PERF or TRF who served on active duty in the armed services for at least six months would be entitled to purchase service credit for the time served on active duty, to the extent the service credit is not granted for that time under existing PERF or TRF provisions. A member would be required to have at least ten years of creditable service in PERF or TRF before the member could use the military service credit.

After Commission discussion, a motion was made and seconded to recommend the proposed legislation (PD 3546) for introduction in the 2001 session of the General Assembly. The motion to recommend PD 3546 was adopted by a vote of 8-0. (See Exhibit N, PD 3546.)

XII. Marion County Constables' Election to Join PERF

Staff next explained the provisions in PD 3506. Under this draft, a constable elected in a township located in Marion County could elect to become a member of PERF without any action by the township governing body. The proposal would allow such a constable to purchase (at actuarial cost) credit for service as a constable in the township that occurred before the constable became a member of PERF.

After Commission discussion, a motion was made and seconded to recommend the proposed legislation (PD 3506) for introduction in the 2001 session of the General Assembly. The vote on the motion to recommend PD 3506 was 4-4, and the draft was not adopted by the Commission. (See Exhibit O, PD 3506.)

XIII. School Retirement Plan Liability

Staff next described the provisions in PD 3557. The draft would provide that a school corporation is entitled to a "retirement plan conversion distribution" from the State if the school corporation establishes a defined contribution plan or a tax sheltered annuity for employees of the school corporation: (1) who were covered by retirement or severance provisions established by the school corporation before July 1, 1999; (2) whose benefits that accrued under the retirement or severance provisions are replaced by the defined contribution plan or tax sheltered annuity established by the school corporation; (3) who become participants in the defined contribution plan or tax sheltered annuity; and (4) who are employees of the school corporation after June 30, 2000.

Under the proposal, the initial distribution in 2002 would be equal to one-half of the amount contributed by the school corporation during the 1999-2000 and 2000-2001 school years to fund the present value of the benefits to which the employees were entitled, as of July 1, 1999, under the retirement or severance provisions established by the school corporation. The distribution would then be phased out over ten years. The draft provides that money would be transferred from the administrative trust fund of the lottery to make the distributions.

The Commission then heard testimony from Senator Robert Jackman concerning the financial problems for school corporations that have developed with regard to local severance and retirement plans. He stated that he hoped the Commission would address the issue, rather than having the General Assembly address the problem on an ad-hoc, school-by-school basis. Commission member Steve Meno asked Senator Jackman whether school boards or school business managers support the proposal. Senator Jackman replied that at the previous meeting a representative of the public school superintendents had spoken in favor of the concept. Representative Larry Buell asked Senator Jackman if the proposal also included the bonding authority that had been given during the past legislative session to a specific school corporation facing the same problem. Senator Jackman explained that such a bonding mechanism was not included in the proposal.

After further Commission discussion, a motion was made and seconded to recommend the proposed legislation (PD 3557) for introduction in the 2001 session of the General Assembly. The motion to recommend PD 3557 was adopted by a vote of 8-0. (See Exhibit P, PD 3557.)

XIV. Health Insurance and Prescription Drug Coverage

Representative Kromkowski urged the Commission to continue to study issues related to health insurance coverage and prescription drug coverage for retired state employees. He stated that the Commission should consider how the uses of the existing cafeteria plan for retired state employees could be expanded. A motion was made and seconded to recommend that the Commission should continue to study these issues. The recommendation was adopted by an 8-0 vote.

XV. Commission Meetings

The Commission then considered PD 3432, which would authorize the Commission to meet at any time during the year. Staff explained that the proposed legislation would not alter the Legislative Council's control over the Commission's budget. Representative Kromkowski pointed to the lengthy agenda for the current meeting and for the Commission's previous meetings. He suggested that the Commission's oversight duties could be better performed if they were spread more evenly throughout the year. Senator Harrison commented that it would probably be difficult for the Commission to have a quorum if it were to meet during the legislative session.

After additional Commission discussion, a motion was made and seconded to recommend the proposed legislation (PD 3432) for introduction in the 2001 session of the General Assembly. The motion to recommend PD 3432 was adopted by a vote of 7-1. (See Exhibit Q, PD 3432.)

XVI. PERF and TRF Post-Retirement Benefit Option Changes

Representative Kromkowski then recognized Ms. Braitman for a brief discussion of actions taken by the PERF Board and the TRF Board in response to legislation concerning post-retirement benefit options. Ms. Braitman explained that the General Assembly enacted legislation that in some circumstances allows a PERF or TRF member to change the member's designated beneficiary or form of benefit after the member has begun receiving benefits. She stated that these changes are allowed if: (1) a designated beneficiary dies while the member is receiving benefits; or (2) the member is receiving benefits and the member marries, either for the first time or following the death of the member's spouse. Ms. Braitman informed the Commission that PERF and TRF are adopting new actuarial factors to reflect this legislation. (See Exhibit R.)

XVII. Final Report

The Commission then discussed its proposed final report. Staff noted that the Commission members would be sent an updated report that reflects the actions taken at the Commission's final meeting. The proposed final report was moved and seconded, and was then adopted by an 8-0 vote. (See Exhibit S.)

Representative Kromkowski then thanked the Commission members for their work during the interim. There being no further business, he adjourned the meeting at approximately 12:30 p.m.